City of Lafayette Staff Report

For:	City Council
By:	J. Matthew Luttropp, Associate Engineer
Date Written:	August 28, 2009
Meeting Date:	September 1, 2009
Subject:	Stanley Boulevard Traffic Calming and Sidewalk Project, Project Number 014-9678, Low Bidder Responsibility Hearing and Award of Contract

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Introduction

Phase 3 of the project on Stanley Boulevard includes installation of a short section of sidewalk with retaining walls and remaining traffic calming devices as outlined in the Neighborhood Traffic Calming Plan. Staff advertised for construction bids and received four bids. They are:

1. Cinray Construction	$81,396
2. J.A. Gonsalves	$110,716
3. W.R. Forde	$146,341
4. Maxicrete, Inc.	$177,453

The engineer's estimate is $85,000. Staff recommends that the lowest bidder be found not responsible and seeks City Council action to find Cinray Construction, the apparent low bidder, non-responsible, reject its bid, and award the contract to the next lowest bidder.

Grounds for Finding Cinray Construction Non-Responsible

Based on first-hand experience in observing Cinray's performance on a recent contract of similar work on Stanley Boulevard, staff has concluded that Cinray does not possess the competency in project management and workmanship required to successfully perform the work required under the subject contract. Furthermore, staff has evidence to believe that Cinray is not complying with applicable codes and laws governing the contract, and in fact has not yet proven full compliance at the time of writing this staff report. Specific fact patterns supporting staff's conclusion include:

1. Staff received two labor complaints against the Contractor where workers stated that they had not been paid or had not been paid the mandated minimum wage rates required by the project. Staff requested copies of canceled checks or bank statements indicating that the workers had in fact been paid in full and at the proper wage rate. As of now this matter has yet to be resolved to our attorney's satisfaction.

2. Related to the above, errors were found in the wage rates reported in the Contractor's certified payroll. At this time these errors and associated documentation of payment of any back pay due to the workers have not been resolved.
3. During the construction of Phase II of the Stanley Boulevard Traffic Calming project, the Contractor consistently had difficulty implementing the improvements per project plans and in compliance with project specifications. Key examples of unacceptable performance include:
    a. The Contractor did not show sufficient understanding of the plans and scope of work. He thought that he had one-third fewer traffic calming islands to build than the plan showed.
    b. The Contractor did not have sufficient understanding of applicable standards and details. As a result, Contractor required multiple inspections to properly construct the form work for the handicap ramp at the east corner of Warner Court and Stanley Boulevard. Once the forms were approved, Contractor experienced workmanship problems and was unable to accurately follow the forms. Ultimately the defective work was removed and reconstructed three times before it was accepted.
    c. The curb and gutter installation along the east corner of Warner Court and Stanley Boulevard was rejected due to improper finishing of the concrete and had to be reconstructed.
    d. Contractor failed to perform proper traffic control on several occasions, requiring extra enforcement before compliance was achieved. Contractor is also lacking in safety practices related to equipment and material storage and staging. On one occasion, Contractor's lack of care resulted in a collision of his equipment with parked vehicles, causing property damage.
4. Cinray's current contract with the City of Lafayette has a Stop Notice filed against it in the amount of $12,000 due to failure to pay a material supplier. At this time no explanation as to how this debt will be resolved has been given.
5. During the striping phase of the recent project, staff received written notices from one of the subcontractors, documenting Cinray's attempt to replace subcontractor without complying with the Public Contract Code. Furthermore, Cinray mobilized an unlisted subcontractor to perform work in direct conflict with instructions from staff to refrain from illegally substituting a subcontractor. The illegal work had to be removed and redone.
6. During the course of the project the City received cancelation notifications from the Contractor's liability insurance provider as well as the State Workers Compensation Fund. These were subsequently resolved and the policies did not lapse; however, this is suggestive of symptoms of either improper project management, or lack of financial resource to support Contractor's on-going operation, or both. The project to be awarded has a higher monetary value than the one just completed.
7. The recent project had 40 working days for the construction of the improvements. The Contractors' initial schedule for the work stated that he would complete the

project within 20 working days. Contractor demonstrated a consistent lack of ability to follow the approved schedule and sequence of work. The project was not completed until Day 51, resulting in 11 days of liquidated damages potentially being assessed against the Contractor.

Taken collectively, the fact patterns suggest a contractor who is deficient in project management skills, construction workmanship, financial resources, and compliance with applicable codes and laws. As such staff does not believe it to be in the public's best interest to award a contract to such a firm. Staff recommends a finding of non-responsibility and rejection of the apparent low bidder, Cinray Construction.

Fiscal Impact

The second low bid is substantially higher than the lowest bid, but is substantially lower than the other bids. The engineer's estimate reflects depressed construction costs that may have trended back up with the flood of federal stimulus roadwork projects in recent months. The project could still be completed within existing allocations made for the various phases of improvements as outlined below, and staff recommends that we proceed.

Allocated Budget for Phase 3:

TDA Grant	$	65,000
General Fund	$	90,000
Design	< $	16,000 >
Bidding	< $	300 >
Funds Available for Construction	$	138,700
Second Low Bid	< $	110,716 >
Construction Contingency (10%)	< $	11,000 >
Construction Testing, Inspection and Administration	< $	2,000 >
Projected Surplus	$	14,984

Recommendation

1. City Council finds Cinray Construction non-responsible and rejects its bid for the project.

2. City Council adopts the project plans, specifications, and project details to conform to the Uniform Construction Accounting Act, and awards contract to second low bidder, J.A. Gonsalves in the amount of $110,716.